

<p style="text-align: center;">SHD Paraphrased Regulations - CalWORKs</p> <p>170 Special-Needs-and-Diversion</p>
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172-1

A payment for a nonrecurring special need shall be granted to an eligible AU when either of the following conditions exists: (1) There is a household emergency resulting from sudden and unusual circumstances beyond the AU's control. (2) Homelessness exists and the AU is seeking permanent housing. An AU is not eligible to this payment if it has over \$100 in nonexempt liquid resources, but liquid resources of \$100 or less shall not be considered for purposes of computing the nonrecurring special need payment. (§44-211.3)

173-1

The following applicants are eligible for the pregnancy special need payment from the date of application through the month of birth:

- .631 A pregnant woman, in her third trimester, who has applied for and is eligible to receive CalWORKs.
- .632 A pregnant teen, under 19 years of age without a high school diploma or its equivalent, who is in an eligible AU of one.
- .633 A pregnant woman who is eligible for CalWORKs in an AU with other persons, or an eligible person "who was the caretaker of a person in accordance with Section 82-820.22."

(§44-211.63, as revised effective June 1, 2001).

When a pregnant woman is a recipient of CalWORKs in an AU with other eligible recipients, she shall be granted the pregnancy special need from the first of the month in which the county received the medical verification through the month of the child's birth. (§44-211.641, revised effective June 1, 2001)

173-1A

State law provides for a \$47 monthly payment to meet special needs resulting from pregnancy to all pregnant persons qualified for aid. Payments for the first five months of pregnancy are not to be made if the payment is considered income under federal law. (W&IC §11450(c))

"Federal law no longer determines what is income for welfare recipients.

"Effective immediately pregnancy special needs payments will begin after medical verification of the pregnancy is received and continue for the duration of the pregnancy. Regulations will be modified to reflect this change. An otherwise eligible pregnant woman with one or more needy children shall be considered eligible for the \$47 supplemental grant effective the month of verification of pregnancy, up through the month in which birth is anticipated." (All-County Letter (ACL) No. 00-45, July 13, 2000, effective July 13, 2000 per this ACL; §44-211.641 was amended to reflect this change effective June 1, 2001)

173-1B

A pregnant teen under age 19 with no other eligible children in an AU of one, and without a high school diploma or its equivalent, who is otherwise AFDC eligible shall receive a pregnancy special need payment from the date of application through the month of birth. (§44-211.632, effective September 1, 1996)

173-1C

Otherwise eligible pregnant-only teens who apply on or after September 1, 1996, who subsequently reach the age of 19 or obtain a high school diploma or its equivalent, and are not in their third trimester of pregnancy are not eligible for CalWORKs (formerly AFDC) or the pregnancy special need payment. (All-County Letter No. 96-45, August 29, 1996 interpreting §§44-209.23 and 44-211.632) Eligibility resumes at the third trimester of pregnancy if the pregnant woman is otherwise eligible for CalWORKs. (All-County Information Notice I-09-97, February 21, 1997)

173-2

A pregnancy special need payment in CalWORKs (formerly AFDC) is \$47 per month. (Handbook §44-211.65)

174-1

A homeless AU seeking permanent housing is eligible to receive homeless assistance. Homeless assistance is available to meet the reasonable costs of securing permanent housing, and is also available to meet the costs of temporary shelter, to the extent that such shelter assists an AU while securing permanent housing. (§44-211.51)

174-1A

The county shall only make HA payments if the provider of housing is a commercial establishment, shelter, publicly funded transitional housing, or person in the business of renting properties who has a history of renting properties. (§44-211.526)

174-1B

Effective January 1, 1996, an AU is eligible for HA only once-in-a-lifetime, except in certain specified situations. Anyone who received temporary shelter and permanent housing payments prior to January 1, 1996 is considered to have received their once-in-a-lifetime benefit. (All-County Letter (ACL) No. 95-62, October 30, 1995)

An HA payment is limited to one period of up to 16 consecutive calendar days of temporary assistance, and one payment of permanent housing, with certain exceptions. (§44-211.513) Effective October 1, 1996 HA shall only be granted for a continuous period of homelessness caused by the same specific circumstance.

An otherwise eligible AU which has received an HA payment on behalf of an eligible child shall not be eligible for further HA payments except in the following situations:

- (1) There is a new caretaker relative, who has not previously received temporary and permanent HA, and who was not living with the AU when the original HA payment was made; and the caretaker relative who received the HA payment is no longer living in the home. (§44-211.514) Effective October 1, 1996, the underlined words "temporary and permanent" were deleted from this regulation.
- (2) A state or federally declared natural disaster is the direct and primary cause of homelessness. (§44-211.541(a))
- (3) The homelessness resulted from domestic violence by a spouse, partner, or roommate; or, the former residence became uninhabitable due to sudden and unusual circumstances beyond the applicant's/recipient's control, such as fire, natural catastrophe, or condemnation; or a medically verified physical or mental illness existed, excluding alcoholism, drug addiction, or psychological stress. Prior to October 1, 1996, there was one payment of HA allowed in a 24-month period. Effective October 1, 1996, payment was limited to a maximum of one period of up to 16 consecutive calendar days of temporary shelter and one permanent HA payment in 24 months. As of July 22, 1999, the recipient may receive permanent or temporary HA, if one of the above exceptions exists, once every twelve months.

(§44-211.541(b), as modified by Assembly Bill No. 1111, W&IC §11450(f)(2)(E)(iii) and ACL No. 99-69, September 21, 1999)

174-1C

Any AU applying for HA must be informed that: HA is limited to once-in-a-lifetime; temporary shelter benefits are only available during a 16-consecutive-day period; and, temporary shelter benefits are exhausted at the end of the 16-consecutive-day period, even if payments for all 16 days are not authorized.

An informational notice must be mailed to all CalWORKs (formerly AFDC) recipients by January 1, 1996 or given to those in the HA application process on January 1, 1996.

(All-County Letter No. 95-62, October 30, 1995; §44-211.51)

174-1D

It is the interpretation of the CDSS that an AU which receives a permanent housing payment that meets one of the HA exception criteria (e.g., domestic violence) has received its once-in-a-lifetime HA payment. (All-County Letter No. 96-40, August 6, 1996)

174-2

The county shall comply with an AU's written request to make payments to the AU or to the providers of temporary shelter, permanent housing or utilities unless the county has established a finding of mismanagement of AFDC cash assistance. In that case, the county shall make direct payments to the providers. (§§44-211.516 and .517)

174-2A

The county shall make direct payments to HA shelter providers for HA payments when the county establishes a finding of mismanagement of AFDC cash assistance. Mismanagement only exists when the county determines the HA was not used for shelter; when the AU fails to provide verification as required under §§44-211.526 and 44-211.532; or when the recipient's homelessness results from the failure to pay rent unless this failure is due to a rent increase in excess of 80% of the MAP for the AU, or reasonable exercise of a tenant's right to withhold rent for cause, or domestic violence. (§44-211.519)

174-3

A temporary shelter payment is available to CalWORKs (formerly AFDC) AUs, and homeless applicant AUs which are apparently eligible for CalWORKs. (§44-211.521)

174-4

The temporary shelter (TS) payment is limited to 16 days to eligible homeless AUs. (§44-211.524) The TS payment increased from \$30 to \$40 per day effective July 22, 1999, for an AU of four or fewer, and from \$7.50 to \$10 per day for each additional person. (All-County Letter No. 99-69, September 21, 1999 implementing W&IC §11450(f)(2))

174-5

Homeless AU recipients may obtain a permanent housing payment. The cost of the permanent housing may not exceed 80% of the AU's Maximum Aid Payment. The total special need payment for the reasonable costs of security deposits cannot exceed two months of the AU's rent.

Security deposits include the last month's rent and any legal payment, fee, deposit or charge that is required by a landlord as a condition of assuming occupancy. The payment for permanent housing costs may include the actual costs of utility deposits in addition to the amount allowable for security deposits. (§44-211.53)

174-6

An AU is considered homeless when it lacks a fixed and regular nighttime residence; or is in a supervised publicly or privately operated shelter designed to provide temporary living accommodations; or is residing in a public or private place not designated for, or ordinarily used as, a regular sleeping accommodation for human beings; and it has a need for housing in a commercial establishment, shelter, publicly funded transitional housing, or from a person in the business of renting properties. An AU is not considered homeless when it is sharing housing, unless the housing is being shared on an emergency basis and is temporary. (§§44-211.511 and .512; *Merriman v. McMahon*, Summary Judgment, July 26, 1989, Alameda County Superior Court)

174-7A

An AU is not eligible to receive the temporary shelter payment if it has been granted permanent housing assistance during the 24-month period described in §44-211.513

except when it still needs temporary shelter prior to assuming occupancy of approved permanent housing and the 16-consecutive-day temporary shelter limit has not expired. (§44-211.522)

174-8

RCA applicants/recipients are not eligible to receive CalWORKs (formerly AFDC) homeless assistance payments. (§44-211.312(a))

174-9

In intercounty transfer cases, the county in which the AU resides is responsible for the HA eligibility determination and HA payment from the date of the request. For HA purposes, an AU resides in the county in which the AU is physically located and intends to reside. (§44-211.515, effective January 1, 1997)

174-10

Eligibility for and the amount of payment for HA shall be determined using the MAP amount for the county where the AU resides, as defined in §44-211.515. (§44-211.515(a), effective January 1, 1997)

174-11

An AU which is homeless in a month in which the CalWORKs (formerly AFDC) grant is in suspense is eligible for the full benefit of HA (temporary shelter and permanent housing) when other conditions for HA eligibility are met. (All-County Letter No. 97-09, February 25, 1997; §44-315.8)

174-12

It is the position of the CDSS that when an AU which is receiving housing assistance (e.g., from HUD) requests a special need permanent assistance housing payment, the amount of the security deposit payable to the AU is to be based on the total rent obligation of the AU including any assistance or subsidy, as opposed to the amount of monthly rent the AU will actually pay.

Once initial eligibility for Homeless Assistance (HA) has been determined, there is a two step process to determine the amount of a security deposit payment.

First, under MPP §44-211.531, a permanent housing payment shall be made only when the AU proves that it has found housing where the rent does not exceed 80 percent of the AU's maximum aid payment (MAP). In cases when the AU is in a shared housing situation the AU's share of the rent shall not exceed 80 percent of the AU's MAP.

Second, the county determines the amount of a security deposit that can be paid to the AU as a special need payment. Under MPP §§44-211.531 and .532, an amount not to exceed two months of an AU's rent is available to pay for the reasonable costs of security deposits when the deposits are a condition of securing a permanent residence. In subsidized or shared housing cost situations, the amount that the AU is obligated to pay to secure housing (that is, the total rental cost) shall be used. The portion of the deposit

attributed to last month's rent cannot exceed 80 percent of the AU's MAP under MPP §44-211.532.

The following example illustrates the two step process.

Step 1:

An AU of four finds permanent housing that rents for \$800 per month. The AU has obtained a monthly subsidy of \$160. With the subsidy, the family's share of the monthly rent is \$640. The MAP for an AU of four is \$811 and 80 percent of this is \$648. In this example, the family's monthly rent is less than 80 percent of MAP. Therefore, this housing arrangement is acceptable under MPP §44-211.531.

Step 2:

The same AU requests \$1,440 for the security deposit and last month's rent. The \$1,440 requested by the AU is acceptable because it is less than \$1,600, which is twice the monthly rent the AU is obligated to pay (prior to the subsidy). The portion of the deposit attributed to last month's rent cannot exceed \$648, which is 80 percent of the AU's MAP.

(All-County Letter No. 01-43, July 18, 2001)

175-1

Prior to approving CalWORKs aid, every applicant shall be informed of the availability of lump sum diversion services to resolve the circumstances that led the family to apply for assistance. (W&IC §11265(a), effective January 1, 1998; 82-215.2, effective July 1, 1998)

175-2

Applicants for aid must, at a minimum, be "apparently eligible" for assistance under §40-129.11, before diversion can be offered. (All-County Letter (ACL) No. 97-68, October 29, 1997; §81-215.31, effective July 1, 1998)

Once apparent eligibility is established, the county shall make its determination in its sole discretion. However, the applicant, even if approved for diversion, must be given the opportunity to decline participation and instead pursue the CalWORKs application. (W&IC §§11266.5(b) and (d); §81-215.33, effective July 1, 1998)

175-3

In determining whether to offer diversion, the county in its sole discretion shall consider whether the applicant is likely to be able to avoid the need for extended assistance beyond the diversion period if the family receives the lump sum payment or service. In making this determination the county may consider any of the following:

.321 The applicant's employment history;

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- .322 The likelihood of obtaining full-time employment;
- .323 The general prospect of obtaining full-time employment;
- .324 The need for cash assistance to pay for work-related expenses, for housing, or for substantial and unforeseen expenses;
- .325 Housing stability; and
- .326 The adequacy of child care arrangements, if applicable.

(W&IC §11266.5(b), effective January 1, 1998; §81-215.32, effective July 1, 1998)

175-4

If a diversion recipient applies for CalWORKs within the diversion period and is determined eligible for aid, the diversion payment shall be recovered. The recipient may choose whether to allow the county to recoup from the grant the value of the diversion payment or service within a time period to be determined by the county, and to count no months towards the 60 month limit; or to count the total diversion period against the 60-month time limit (as set forth in W&IC §11454) and not repay the diversion services. (W&IC §11266.5(f); All-County Letter No. 97-68, October 29, 1997; §81-215.51, effective July 1, 1998)

175-5

If the diversion recipient reapplies for aid after the diversion period has ended, one month shall be counted toward the 60-month maximum time limit for receiving cash assistance, as set forth in W&IC §11454. (W&IC §11266.5(f); All-County Letter No. 97-68, October 29, 1997; §81-215.52, effective July 1, 1998)

175-6

The "diversion period" is the time period represented by the value of the diversion payment/service divided by the appropriate MAP amount for the apparently eligible AU at the time of the diversion payment/service. In the case of noncash services, the county shall determine the fair market value of the services in calculating the diversion period. (All-County Letter No. 97-68, October 29, 1997; §81-215.4, effective July 1, 1998)